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Supreme Court, U.S.
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JOSEPH F. SPANIOL, JR.
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NO. 90-177

Supreme Court of the United States

OCTOBER 1990 TERM

"IN PURSUIT OF JUSTICE"

BETTY P. DOUTHWAITE

vs.

STATE OF VIRGINIA

PETITIONER'S SUPPLEMENTAL BRIEF

IN

OPPOSITION TO RESPONDENTS BRIEF

CONSTITUTIONAL

LAW

"IN GOD I TRUST"

pro se - Layman

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CONSTITUTIONAL QUESTIONS

(1) Imperative, "Major point of law" which has not been, but should be settled by this court:

Article VI Section 2 Supremacy Clause plus; Section 3 Oath that binds the Constitution

vs.

The Eleventh Ammendment Assumption of implied powers, State Sovereign Immunity

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(2) And also, violations by the State of these federal rights.

IV Amendment: "to be secure in one's person, and one's home from seizures, intrusions by government'

XIV Amendment: "Equal protection under the Law"

The Federal questions are substantial.

S U P P L E M E N T A L
A P P E N D I X

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POINTS AND AUTHORITIES:
See Original Brief (pages 3-21)
Supplemental Brief (pages 1-6)

Supreme Court Landmark Case,
Cohen vs. Virginia -
Great Chief Justice John Marshall
and other cases cited

U.S. Constitution:
Article VI
IV and XIV Amendment
Article III
Federal Tort Claims Act
U.S. Statute of Limitations
28 U.S.C. 1331
28 U.S.C. 2072

S U P P L E M E N T A L
A P P E N D I X

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U.S. COURTS;

- U.S. DISTRICT COURT FOR EASTERN DISTRICT OF VA (Alexandria, VA)
- U.S. COURT OF APPEALS FOR FOURTH CIRCUIT (Richmond, VA)

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*Please note typographical error on Page 1 of the "Original" Appendix - should read: "filed May 2,1989"

DISTORTION OF LAW AND FACT

(1) "In" the Appeals Court Order, in the footnote, May 1, 1990.

(2) "In" Respondents Brief - page 2, paragraph 1.

(3) The Law; U.S. Statute of Limitations

(4) The Dates - Complaint filed May 2, 1989
Expiration of Statute, May 4, 1989

(5) Both parties knew, the Law and the dates - yet, the footnote of the Appeals order: "Ms. Douthwaite could refile her claim" is false, "the cause of action" has expired. The Respondent had the correct dates in her brief on page 1 - paragraph 2, yet, despite knowing this fact, still concurred with the Appeals Court footnote, on page 2 - paragraph 1 - and stated the action could be reinstated, which is false.

(6) Therefore - no relief is available in any other court, unless the petition is granted.

Such a distortion of law and fact should be cause for reversal of the decision by the Appeals Court, and granting of the Petition for a WRIT OF CERT.

Please note omissions from Complaint; (4th Amend. protections) Wolf v. Colorado, 338 U.S. 25, 27 (1949), Mapp v. Chio, 367 U.S. 643 (1961), Ker v.California, 374 U.S. 23,33 (1963). 14th Amend. 389 U.S. 258; 391 U.S. 145-, Tribe Const. Law #11-2. Others, VA. Code--and Ellis v. U.S. D.C.S.C. 1978, 484F, Supp.4. etc.

Please note court denied Plaintiff's (Petitioner's) Third Party Defendant Motion, see order U.S.Dis.Court

A R G U M E N T

UNDER AUTHORITY OF U.S. CONSTITUTION, SUPREME LAW

Petitioner's Opposition to the scope of the Respondent's Brief, as it is without merit. Specific "points"-

(1) Jurisdiction: The 11th Amendment - conflicts with the Constitution; - Article VI, Section 2, Federal Supremacy Clause, in part "ANYTHING 'IN' THIS CONSTITUTION or Laws of any State to the contrary NOT WITHSTANDING".

(2) A Governor (Executive) "is" a person under the meaning of the U.S. Constitution; - Article VI, Section 3 - "Oath" that binds officials to support the Constitution, as only a "real" person could TAKE this oath and EXECUTE this support.

(3) State Sovereign Immunity Doctrine conflicts with U.S. Constitution; - Article VI, Section 2 - Federal

Supremacy Clause.

(4) The deprivation of Federal Rights;- IV and XIV Amendments, "to be secure in one's person, and one's home from seizures, intrusions by government" and XIV Amendment "Equal protection of the law"; conflicts with the U.S. Constitution, Article VI, and officials responsibility under oath to support the Constitution.

(5) Deprivation of relief under the U.S. Statute, Federal Tort Claims Act damages for "breach of a legal duty", negligence, wrongful act or omission. (The Complaint had citations; Prosser Law of Torts § 1, 4th ed., 1971, and 256 N.E. 2nd, 254, 259 - also, 143 N.E. 2nd 673, 680.) An official acting in the scope of their duty could be liable to the Claimant under 28 USC 1346 (b).

The jurisdictional grounds of the case were properly plead - Title 28 U.S.C. § 1331, as the Jurisdictional subject matter is "Constitutional Law" - which is, a specialty of the Supreme Court, and other federal courts. The U.S. Judicial power Article III, Section 2 - Words, "Arising under this Constitution", are still in force, and not effected by the 11th Amendment, nor are they "implied" - nor are these Constitutional Clause Words, "Arising under this Constitution", in the 11th Amendment - at all. Federal Courts must preserve, protect and defend our Constitution.

CONCLUSION

This entire case rests on the "Constitutional Authority of Article VI", as the 11th Amendment's "assumption of implied immunity is "in" conflict with the explicit words, therein - and, accordingly, without standing. Both Governors and Judges are bound by Oath to uphold this powerful Article yet, neither the State of Virginia, nor the two lower courts did this. The breach of a legal duty, and the distortion that the case could be refiled are unusual and should constitute a cause for reversal of the Appeals' decision - and a satisfying of relief. Furthermore, the national importance of this vital point of Law, and the arbitrary violations by the State of Article VI, and the IV and XIV Amendments should merit granting of this Petition for a Writ of Certiorari.

Respectfully submitted,
"In God I Trust"

pro se - Betty P. Dauthwaite

ARTICLE III, SECTION 2

1. The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their Authority; - to all Cases affecting Ambassadors, other public Ministers and Consuls; - to all Cases of admiralty and maritime Jurisdiction; - to Controversies to which the United States shall be a Party; - to Controversies between two or more States; - [between a State and Citizens of another State;] - between Citizens of different States, between Citizens of the same State claiming lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

**But the 2 exceptions, in the Article, that are bracketed above.